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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,758

11/12/2003

Michael A. Willen

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26111 7590 12/03/2009
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
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EXAMINER

VIZVARY, GERALD C

ART UNIT

PAPER NUMBER

3684

MAIL DATE

DELIVERY MODE

12/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/705,758	Applicant(s) WILLEN ET AL.	
	Examiner GERALD C. VIZVARY	Art Unit 3684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/9/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/3/2008 & 9/9/09</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Index of claims</u> . |

DETAILED ACTION

Response to Amendment

1. In the RCE filed 9/9/2009, the following has occurred: claims 1, 6, 8, 9 & 15 have been amended. Now, claims 1-20 are presented for examination.

Continued Examination under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/9/2009 has been entered.

Official Notice

3. Applicants have traversed the Official Notice taken that is old and well known in the art to use separate processors for separate functions in the design of signal processing systems. In view of the specific applications stated in the claims, this official notice is withdrawn.

Claim Rejections - 35 USC § 103

4. Applicant's arguments, filed 9/9/2009, with respect to claims 1-20 have been fully considered and are persuasive. The rejection of claims 1-20 under 35 USC § 103 has been withdrawn.

Claim Rejections - 35 USC § 112 2nd paragraph

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 4-10, 15, 16 & 18 are rejected under 35 U.S.C. 112.

Claims 1, 9 & 15 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: In the recitation "said recombination processor is configured to receive a weather factor knowledge base", what is received from the knowledgebase? For prosecution purposes, Examiner will assume that data are meant to be received. Appropriate correction is required.

Vague and indefinite:

Claims 1, 2, 6-10, 15 & 16 recite "weather factor" without defining what constitutes "weather factors". This term is indefinite. Appropriate action is required.

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Claims 1, 9 & 15 recite “relationship strength” without defining “relationship strength”.

This term is indefinite. Appropriate action is required.

Claims 4, 5, 12 & 18 recite “sales history data” without defining “sales history”. This term is indefinite. Appropriate action is required.

Claim 5 also recites “old sales history data”, “outside source”, “category that includes said product” & “similar weather-based demand relationship”. These terms are indefinite. Appropriate action is required.

Conclusion

6. The following is prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

VanHorne, J.C. & Wachowicz, J.M. Fundamentals of Financial Management 11th Edition, Prentice Hall, Upper Saddle River, NJ 07458, 2001 pp 409-411 discusses the use of proxy companies for use in the capital asset pricing model (CAPM)

Campsey, B.J. & Brigham, E.F. Introduction to Financial Management, CBS College Publishing NY, NY 10017, 1985 pp, 435-446 discusses the capital asset pricing model in detail showing the applications of proxy companies in computing beta

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Kamen, E.W & Heck, B. Fundamentals of Signals and Systems Prentice Hall, Upper Saddle River, NJ 07458, 1997 pp. 378-379 shows separate processors in series and parallel.

Long, L. & Long, N. Computers 3rd Edition Prentice Hall, Upper Saddle River, NJ 07458, 1993 p.53 & p.648 refer to coprocessors and p.117-118 & p.656 refer to parallel processing.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald C. Vizvary whose telephone number is 571-270-3268. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-270-4268.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gerald Vizvary
Patent Examiner, A.U. 3684
November 19, 2009

/Nga B. Nguyen/
Primary Examiner, Art Unit 3684